

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**RUSTY LEE HILLIARD**

**VS.**

**SHERIFF, SMITH COUNTY**

§  
§  
§  
§  
§

**CIVIL ACTION NO. 5:21-cv-36**

**ORDER**

Rusty Lee Hilliard, proceeding *pro se*, filed this petition for writ of habeas corpus. Docket No. 1. The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636 and applicable standing orders of the Court.

The Magistrate Judge submitted a Report and Recommendation on January 26, 2024, recommending that the petition be dismissed without prejudice as successive. Docket No. 12. No objections to the Report and Recommendation have been filed.<sup>1</sup> As a result, Petitioner is not entitled to *de novo* review of unobjected-to factual findings and legal conclusions contained in the Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); *see also Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at \*1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the reports of the Magistrate Judge are correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge’s report are filed, the standard of review is “clearly erroneous,

---


<sup>1</sup> The Report and Recommendation was mailed to Petitioner’s last known address on January 26, 2024. Petitioner is a *pro se* litigant and, under the Local Rules of the Eastern District of Texas, *pro se* litigants must provide the Court with a physical address and are responsible for keeping the clerk advised in writing of their current address. Local Rule CV-11(d). To date, Petitioner has not acknowledged receipt of the Report and Recommendation.

abuse of discretion and contrary to law.”). Accordingly, it is

**ORDERED** that the Court hereby **ADOPTS** the Report and Recommendation of United States Magistrate Judge (Docket No. 12) as the findings and conclusions of this Court. It is further

**ORDERED** that this petition for writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

**So ORDERED and SIGNED this 26th day of February, 2024.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE